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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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12 UNITED STATES OF AMERICA, NO. CR. S-04-0026 WBS
13 Plaintiff,
14 v. ORDER
15 SUSAN E. D'ORTA-BLEDSOE,
16 Defendant.

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20 Defendant Susan E. D'Orta-Bledsoe now moves for
21 "modification or reduction of sentence based upon intervening
22 change in the United States Sentencing Guidelines pertaining to
23 corollary criminal history category (Amendment 12) which
24 effectively lowers petitioner's term of imprisonment."

25 In her reply to the government's opposition to the
26 motion, D'Orta-Bledsoe seems to concede that her reference to

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1 Amendment 12¹ was meant to refer to Amendment 709, which was
2 enacted in 2008 and affects the calculation of criminal history.
3 Because she was sentenced on January 14, 2008, D'Orta-Bledsoe
4 contends Amendment applies to her case. Assuming it does,
5 D'Orta-Bledsoe does not suggest how the Amendment might have
6 affected the calculation of the criminal history in her case.

7 Further, as D'Orta-Bledsoe acknowledges, the Supreme
8 Court had decided United States ve. Booker, 543 U.S. 220 (2005)
9 before her sentence, thus rendering the guidelines advisory
10 only. The sentence imposed was the sentence the court found to
11 be sufficient, but not greater than necessary, to satisfy the
12 various factors in 18 U.S.C. § 3553(a), regardless of whether
13 Amendment 709 specifically applied to her case.

14 IT IS THEREFORE ORDERED that defendant's motion for
15 modification or reduction of sentence based upon alleged
16 intervening change in the United States Sentencing Guidelines
17 be, and the same hereby is, DENIED.

18 DATED: December 22, 2008

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21 WILLIAM B. SHUBB

22 UNITED STATES DISTRICT JUDGE

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27 ¹ Amendment 12, which became effective on January 15, 1988, clarified § 2B2.1(b)(2) regarding the determination of loss. United States v. White Lightening, 2008 WL 4922360 (D.N.D.).

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